

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

TERRANCE SMILEY,

Petitioner,

v.

CIVIL ACTION NO. 1:18-01155

WARDEN, FCI FORT DIX,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted to the court his Proposed Findings and Recommendation ("PF&R") on April 14, 2021, in which he recommended that the court deny petitioner's § 2241 petition (ECF No. 1) but transfer this matter to the United States District Court for the Southern District of Ohio for further consideration of petitioner's claim concerning the application of U.S.S.G. § 5G1.3(b) as addressed in ECF Nos. 15 and 18 under 28 U.S.C. § 2255.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file objections to the PF&R. The failure of any party to file such objections within the time allowed constitutes a waiver of such party's right to a de novo review

by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party filed any objections to the PF&R within the required time period. Accordingly, the court adopts the PF&R as follows:

1. Petitioner's § 2241 petition is **DENIED** (ECF No. 1), but this matter is **TRANSFERRED** to the United States District Court for the Southern District of Ohio for further consideration of petitioner's claim concerning the application of U.S.S.G. § 5G1.3(b) as addressed in ECF Nos. 15 and 18 under 28 U.S.C. § 2255.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented parties.

IT IS SO ORDERED this 9th day of July, 2021.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge